

ARTICLE VIII

GENERAL PROVISIONS APPLYING TO ALL OR TO SEVERAL DISTRICTS

SECTION 1

APPLICATION OF REGULATION TO THE USES OF A MORE RESTRICTED DISTRICT

1.1--Whenever the specific district regulations pertaining to one district permit the uses of a more restricted district, such uses shall be subject to the conditions set forth in the regulations of the more restricted district, unless otherwise specified.

1.2--It is intended that these regulations be interpreted as not permitting a dwelling unit to be located on the same lot with or within a structure used or intended to be used primarily for nonresidential purposes, except in O-1, O-1P, C-1 and C-IP zoning districts, PUD or other site review type development.

SECTION 2

EXISTING BUILDINGS AND LAND USE

2.1--Except herewith provided, no building or parcel of land shall be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified.

SECTION 3

DENSITY AND HEIGHT

3.1--No building shall hereafter be erected or altered which will exceed the height limit or shall any building or land be used or occupied hereafter in excess of the density regulations for that district, no building shall hereafter be erected or altered to accommodate a greater number of families than those specified for that district, no buildings shall be erected or altered to exceed the specifications of required lot size, maximum coverage, yard requirements, height limitations, or bulk limitation for that district as defined.

3.2--No building or structure shall hereafter be erected or altered in the Agriculture (A-1) or any R, "O," "C" or a PUD zoning district which will exceed two (2) stories or thirty-five (35) feet in vertical height above the mean lot elevation without the installation of an approved fire protection and suppression system as established in the current, adopted Codes of the City of Broken Arrow, Oklahoma.

No building or structure shall hereafter be erected or altered in any "I" zoning district which will exceed three (3) stories or fifty (50) feet above the mean lot elevation without the installation of an approved fire protection and suppression system as established in the current, adopted Codes Of the City of Broken Arrow, Oklahoma.

SECTION 4

BUILDINGS

4.1--Any building hereafter erected or structurally altered shall be located on one (1) lot; and except as provided herein; there shall be no more than one (1) principal building and the customary accessory buildings on one (1) lot; provided further, that accessory buildings may not be erected or placed in the front and side yard areas as required in the separate districts.

SECTION 5

VACATION OF PUBLIC EASEMENTS

5.1--Whenever any street, alley or other public easement or right-of-way is vacated, the portion vacated shall have the same district classification as the land to which the vacated portion accrues.

SECTION 6

STREET ACCESS

6.1--No principal building nor a residence shall hereafter be constructed on a lot which does not abut a public dedicated street except in a PUD or other development in which a property owner's or homeowner's corporation is chartered with responsibility for maintenance and other concerns related to private access ways. Nor shall the frontage of said lot in which the principal building or residence is construed be less than that required for that district.

SECTION 7

OFF-STREET PARKING

7.1--PURPOSE AND APPLICATION

It is the intent of these requirements that adequate parking and loading facilities be provided off the street right-of-way and easement for each use of land within the City of Broken Arrow. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all districts.

7.2--REQUIRED OPEN SPACE

Off-street parking space may be part of the required open space associated with the permitted use and shall not be reduced or encroached upon in any manner.

7.3--LOCATION

The off-street parking lot shall be located within two hundred (200) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley.

7.4--JOINT PARKING FACILITIES

Whenever two (2) or more uses are located together in a common building, shopping center, or other integrated building complex, the parking requirements may be complied with by providing a permanent common parking facility, cooperatively established and operated, which contains the requisite number of spaces for each use. The total number of spaces provided shall not be less than the sum of the individual requirements.

7.5--SIZE OF OFF-STREET PARKING SPACE

The size of a parking space for one (1) vehicle consists of any area having dimension of not less than nine (9) feet by twenty (20) feet plus adequate area for ingress and egress. This does not include handicap parking stalls, which shall be provided according to the adopted Codes of the City of Broken Arrow.

7.6--SURFACE REQUIREMENT

OFF STREET PARKING LOTS IN OFFICE, INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL PARKING SPACES.

All parking spaces in office, industrial and commercial districts, or in any institutional use, shall be paved with a sealed, all-weather surface payment of asphalt or concrete, striped according to the Broken Arrow Zoning Code Article VIII, §7. For purposes of this section, an area used for secured storage of vehicles which is anticipated to last for more than four (4) months without interruption is exempt from the requirement of paving this storage area. Those parking lots adjacent to residential districts, must also comply with Broken Arrow Zoning Code, Article VIII, §7.7 as set forth hereafter.

(Ord 2134, adopted 2/16/98)

7.7 OFF-STREET PARKING LOTS IN RESIDENTIAL DISTRICTS

Whenever off-street parking lots for more than six (6) vehicles are to be located within or adjacent to a residential district, the following provisions shall apply:

- A. All sides of the lots within or abutting the residential district shall be enclosed with an opaque wall or fence having a height of not less than six (6) feet. Such fence or wall shall be maintained and constructed in good condition by the lot owner or user.
- B. No non-residential parking shall be permitted within a front yard setback line whenever the parking lot is located in a residential district or immediately abutting the front yard of a residential unit. In all other cases, a minimum of five (5) foot setback shall be required.
- C. Driveways for single family residences shall not exceed twenty-five (25) feet in width, exclusive of curb returns.
- C. All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use.

- E. Whenever lighting is provided, it shall be arranged so that all light is deflected away from adjoining residential use.
- F. No sign of any kind shall be erected except directional or information signs used to guide traffic and to state the condition and terms of the use of the lot(s). Only non-intermittent white lighting of signs shall be permitted.

7.8--OFF STREET PARKING FOR HANDICAP STALLS

The owner or tenant of property, being used in a commercial, industrial, office or institutional manner where the public is invited for the transaction of business, shall maintain sufficient parking stalls to comply with ANSI A117.1, a national standard which is adopted by reference in BOCA Basic National Building Code Section 512.4. The failure of the owner or of the tenant of the property being used as described above to maintain parking stalls of the minimum number and minimum size to meet the requirements of ANSI A117.1 or the failure to maintain appropriate symbols, paintings and other markings necessary to designate such parking stall as being reserved for physically disabled persons is hereby declared a violation of the public policy. Appropriate symbols, paintings and other markings shall specifically include both (1) a vertically mounted sign for each stall, and (2) additional markings on the surface of the stall or curbing. The City shall give written notice to the owner or the tenant that the parking facilities fail to meet the required standard or that the symbols, paintings or other markings are in need of maintenance. The failure to correct the problem contained within the notice within ten (10) days of receipt shall be a Class B offense. Each day the violation continues after the tenth (10th) day shall be a separate offense.

Provided that the above paragraph shall not apply to the owner or tenant of property having less than ten (10), public, off-street parking spaces. The term "public, off-street parking spaces" does not include parking reserved exclusively for employees. Owners or tenants making use of shared or common off-street parking lots shall be affected by this section on the basis of the total number of parking spaces provided in the lot, and not merely on the basis of the number of parking spaces reserved for individual businesses.

SECTION 8

STORAGE AND PARKING OF TRAILER AND COMMERCIAL VEHICLES

8.1--Commercial vehicles, recreational vehicles, and trailers of all types, including travel, camping, recreational, and hauling vehicles, and mobile home(s) shall not be parked or stored on any lot occupied by a dwelling or on any lot in any Residential District except in accordance with the following provisions:

- A. No more than one (1) commercial vehicle, which does not exceed one and one-half (1-1/2) tons rated capacity; per family living on the premises, shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products be permitted.
- B. Not more than one (1) camping, or travel trailer, or hauling trailer, or recreational vehicle per household shall be permitted on any residential lot, and no more than one (1) boat and its associated trailer, per household shall be parked or stored on any residential lot exclusive of those vehicles entirely stored within a fully enclosed structure. Provided that no trailer, boat, or recreational vehicle shall be parked or stored on the premises for more than a single period not to exceed twenty-four (24) hours in length during any week unless such is located behind the front building line. On corner lots burdened by building lines from two streets, no such vehicle shall be parked or stored unless such is located behind both building lines. The City Manager or a designee may authorize the parking of Recreational Vehicles in front of building lines for periods of up to three (3) days plus extensions not to exceed nine (9) days cumulative, where temporary special circumstances would justify such a nonrecurring use for visitors to the household, and all streets, sidewalks, and sight triangles remain clear. For the purposes of this section, a week shall be defined as a period of time commencing at 12:00 a.m. Sunday morning, and ending at 11:59 p.m. Saturday evening. An inoperable vehicle, boat or trailer, including major parts thereof, shall be deemed a vehicle, boat, or trailer subject to this section. A camping or travel trailer or motor home or house/pontoon boat, shall not be occupied as a dwelling or as sleeping quarters either temporarily or permanently while it is parked or stored in any area within the incorporated City limits except on land zoned RMH as authorized under the ordinances of the City of Broken Arrow. **(amended by Ord No. 1865, adopted 7/4/94) (amended by Ord No. 1994, adopted 5-20-96)**
- C. A mobile home or a manufactured/modular home shall be parked or stored only in a trailer court or mobile home park which is conforming with the ordinances of the City of Broken Arrow. Oklahoma.

8.2--Standing for Enforcement Actions.

The City of Broken Arrow shall always have standing to enforce any provision of the Zoning Code. For purposes of Article VIII, Section 8 only, and to provide meaningful and necessary provisions for legislative, administrative and judicial self-restraint in the enforcement of this section, the following individuals and entities shall be determined to have standing to file and apply for enforcement actions through the Broken Arrow Inspections Department. **(Ord No. 1561, adopted 7/10/89).**

- A. Any person having a present interest in real property within the subdivision where the parking or storage violation occurs;
- B. Any person having a present interest in real property located within six hundred sixty (660) feet of the land where the parking or storage violation occurs;
- C. Where the parking or storage violation occurs on land adjacent to a collector street, any person having a present interest in property abutting the collector street or abutting any minor street served by the collector street within that mile section;
- D. Where the parking or storage violation occurs on land adjacent to a highway or arterial street, any resident of the City of Broken Arrow;
- E. Where the membership of any organization generally meets the requirements of standing as set forth above, the association or entity itself shall be considered to have standing for the purposes of this ordinance.

8.3--A present interest in real property for purposes of 8.2 shall include, but not be limited to: ownership of the legal or equitable title, ownership of any valid lien on the land, tenancy, or actual occupation of the land. Proof of title or a lien shall be shown by a recordable instrument. **(Ord No. 1561, adopted 7/10/89).**

SECTION 9

MANUFACTURED HOUSING/MOBILE HOMES

9.1--INDIVIDUAL MOBILE HOMES

Manufactured Housing, which specifically includes but is not limited to mobile homes, may be parked or stored on lots within the City other than a mobile home park, only following the receipt of a permit issued by the City Council following a public hearing. Permits for manufactured housing permanently affixed to a conventional slab foundation which is constructed in accordance with the applicable building codes may not be issued for the useful life of the structure. However, the permit for any manufactured housing with a chassis, whether with wheels or with wheels removed, and for any other manufactured housing not permanently mounted to a conventional slab foundation, may be limited as to duration, not to exceed one year; but said permits may be renewed upon successive applications which may be granted or denied at the Council's discretion. Any manufactured housing for which a permit has expired must be removed by the owner of the land of the owner of the housing within thirty (30) days after the expiration of the permit.

The City Council may issue a permit only following a public hearing. Notice of this public hearing is required and shall include at least one notice in a newspaper of general circulation in the City of Broken Arrow, published not less than fifteen (15) days but not more than thirty (30) days prior to such public hearing. Further, such notice of public hearing shall also require the mailing of written notice by letter, mailed by the City Planning Dept. to all owners of property within a three hundred (300) foot radius of the exterior boundary of the property for which a permit is being sought. This notice shall be mailed not less than twenty (20) days and not more than thirty-five (35) days prior to the date of the hearing. The property owners within a three hundred (300) foot radius shall be determined by a certificate of a licensed and bonded abstracting company or a title company, provided by the applicant. The applicant shall pay the City in advance for the actual expenses of the mailed notice and certificate of mailing.

In addition to the publication notice and the mailed written notice, the notice of the public hearing shall also be given by the posting of at least one sign on such lot, parcel or tract of land for which a permit is being sought, and such sign shall remain on the property for a period of at least twenty (20) days prior to public hearing. Such sign shall be posted in a prominent place, clearly visible from a collector street if the property abuts a collector street, or clearly visible from the most heavily traveled street or public way if the property does not abut an arterial or collector street.

All notices of a public meeting herein required shall contain: a) the fact that the applicant is seeking to gain a permit to allow manufactured housing, b) date, time and place of the public hearing; and c) a statement that the hearing is before the City Council.

SECTION 10

SEWER SERVICE

10.1--No structure or use shall be constructed, commenced, or allowed to continue that does not have a connection to either the public sewerage system and/or a private sewer system approved and certified by the City Engineer and health officials of the City-County Health Department, unless approved by the City Council.

SECTION 11

PLACEMENT OF FENCING

11.1--SIGHT TRIANGLE

An area of land located adjacent to the intersection of two (2) or more streets, which area of land is bounded by a line measured from the center of a connecting street and extended along the curb line of a corner lot for a distance of seventy-five (75) feet, to an end point to form one boundary of the triangle, and bounded by a line measured from the center of the second connecting street and extended along the second curb line of the corner lot for a distance of seventy five (75) feet to an end point to form the second boundary of the triangle; and bounded by a straight line connecting the two (2) end points of the first two (2) boundaries. This triangle has been determined for regulatory purposes to be sufficient for the drivers of two (2) vehicles traveling at twenty-five (25) miles per hour or less and approaching an uncontrolled intersection on separate, interconnecting, level and dry streets to view each other and take appropriate actions safely. This triangle has also been determined for regulatory purposes to be sufficient for pedestrian traffic, which may be augmented by toys such as roller skates, skateboards, sleds and similar devices.

11.2--FENCES ALONG ARTERIAL AND COLLECTOR STREETS AND HIGHWAYS

- (a) All residential uses, including, but not limited to, single-family attached and detached, duplexes, multi-family, mobile homes, etc., which back up to any arterial or collector street or a highway, shall be screened with a solid opaque fence to provide screening of the rear yards of the residential property. This screening or fences shall be not less than six (6) feet nor more than ten (10) feet in height; provided that such fence shall not be constructed in any storm water drainage easement, established flood plain, or sight triangle areas.
- (b) All multi-family residences, mobile home parks and all industrial uses (i.e., IS, I-1, and I-2) which adjoin any arterial or collector street or highway, shall be screened with a solid opaque fence, which provides screening of all yards. This screening fence shall be not less than six (6) feet nor more than ten (10) feet in height; provided that such fences shall not be permitted in any storm water drainage easement, established flood plain, sight triangle areas, nor block ingress and egress.
- (c) Screening requirements for commercially zoned districts shall be imposed by the Planning Commission at the site plan review based upon the type and intensity of the use, and giving consideration to public safety, security, and traffic flow. **(Ord No. 2159, adopted 8/3/98)**

- (d) On or after the effective day of this Ordinance, all new fences, including replacements for existing fences, which are required by the Zoning Ordinance, shall have the vertical support posts constructed of permanent building materials that may include but not be limited to a minimum of schedule 40 galvanized steel posts with an outside diameter equal to or larger than two and three-eighths (2 3/8) inch, masonry columns at least one foot square, or pvc fencing using dual extruded pvc posts. The Planning Commission may permit alternative support posts as part of any site/landscape plan review, as long as the materials used meet or exceed the wind load capabilities of the materials listed above. Footings shall be constructed of concrete or equivalent materials. Any existing fence otherwise lawful at the time of construction and thereafter maintained may continue throughout its useful life; however, the replacement of such fence or other repair of more than thirty (30) consecutive linear feet shall require the replacement or repair to conform to the standards listed herein. Unless otherwise approved by the Planning Commission, all fencing shall be uniform in height. Replacement fencing/screening, excluding support posts, shall retain its original height and material and the top elevation shall match the adjoining elevation.

Ord 2401, adopted 11/19/01

11.3 - FENCES IN RESIDENTIAL NEIGHBORHOODS

- (a) Fences or vegetation having a screening effect shall not be permitted or allowed by the owner to grow on any corner lot within the sight triangle of a corner lot.
- (b) Fences shall not be constructed in the street right-of-way, whether such right-of-way is held as an easement or in fee.
- (c) If additional fences are constructed on the residential lot, such fences adjoining any arterial, collector, or minor street, shall be not less than six (6) feet nor more than eight (8) feet in height. Fences adjoining a highway shall be not less than six (6) feet nor more than ten (10) feet in height.
- (d) Fences in residential areas may be constructed on property lines, in side yards, and rear yards. However, no fences higher than thirty (30) inches may be constructed in any front yard as defined by this code.
- (e) If the landowner of a corner lot constructs a fence within a side yard and rear yard in accordance with Section 11.2, and if the rear portion of these yards of the corner lot abut the side yard of a neighboring lot, then any such fence built between the building setback line and the property line must be so constructed as to allow the driver of a vehicle on the neighboring lot to have a clear view of the street and all traffic thereon, for a distance of seventy-five (75) feet in each direction from the point of entrance into the street right-of-way from the neighboring lot. For the purpose of this subsection, the rear portion of the corner lot will be deemed to abut a neighboring side yard only if the two (2) yards form a

common boundary along the majority of their length. **(Ord No. 2159, adopted 8/3/98)**

11.4 - FENCES IN FLOOD AND DRAINAGE AREAS

No fences, other than an open split rail fence or barbed wire fence, shall be constructed in any one hundred-year flood plain area. No fences other than open split rail or barbed wire shall be constructed in drainage easements which are not in the 100-year flood plain area unless the owner has been given the written approval of the City Engineering Department following their investigation of the consequences to the drainage.

(Ord No. 2159, adopted 8/3/98)

SECTION 12

PLATTING REQUIREMENTS

12.1--All land which has been rezoned shall be platted in accordance with the requirements of the Broken Arrow Subdivision Ordinance in order to provide for the proper arrangement of streets, assure the adequacy of open space for traffic, provide for utilities, and allow access of emergency vehicles. No map amendment for a zoning change, nor the ordinance proclaiming this change, may be approved by the City Council, until the property has been platted in accordance with the Subdivision Code. Provided, that the City Council may waive the platting requirement in those instances wherein nothing would be accomplished through enforcement of the platting requirement, such as in those instances in which the land is included within the existing plat of record which adequately provides for the necessary public features, or where these public features have been previously provided by other instruments.

12.2--A building permit shall not be granted upon any land which has been rezoned, but which land has not been platted following the rezoning in accordance with the Land Subdivision Ordinance. Provided that the City Manager may authorize the issuance of a building permit in those instances where the public needs have already been met, such as lands which have been previously platted in a manner adequate in providing the necessary public features.

SECTION 13

SITE PLANS

13.1--The petitioner or developer shall submit to the Planning Commission or its designated authority, a site plan for any building to be constructed in 0-1, 01-P, 0-2, 0-3, C-1, C-1P, C-2, C-3, C-4, C-5, R-5, R-6, IS, I-1, or I-2 district showing a unified and organized arrangement of the building and/or buildings, off-street parking, points of ingress and egress, internal traffic circulation, advertising signs, service facilities, utility locations, curb lines, neighboring curb cuts, and utility poles (if any) which are feasible with the property on which the building or buildings are proposed and which planned development shall minimize any adverse effect of the development on the property surrounding development. The plan must contain information showing compliance with requirements of this section and all other applicable City codes and ordinances. The Planning Commission may delegate and assign the review and approval of said site plan to its Staff, with an appeal from denial by Staff to be made to the Planning Commission and thence to the City Council.

SECTION 14

BUILDING PERMIT REQUIREMENT

14.1--No building or other structure should be erected, constructed, enlarged or altered in such manner as to prolong the life of the building, nor shall the use of any land or building or other structure be changed without a building permit issued by the Inspection Department of the City of Broken Arrow, authorizing such construction, alteration or use changes as being in compliance with provisions of this Ordinance.

- a. An application for building permit shall be made to the Inspection Department of the City of Broken Arrow by the owner, or proposed occupant of the building or land to be occupied or used, and said application shall state the location and legal description of said property and set out in detail the character and nature of the use to be conducted thereon. The Inspection Department of the City of Broken Arrow shall grant or deny said building permit in accordance with the terms of this ordinance.
- b. All applications for building permits shall be accompanied by a plat or drawing drawn to scale, showing the dimensions of the lot to be built upon, the size and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of these regulations.
- c. A building permit fee will be charged in accordance with the schedule set forth in the building code of the City of Broken Arrow, as adopted on the date the application is made.

14.2--MISREPRESENTATION

All information provided by an applicant shall be accurate, whether provided directly, through agents, or through independent contractors, regardless of whether the information is in the form of text, data or drawings. Misrepresentation as to any such information shall be sufficient reason to deny the application and in addition, shall be an offense punishable in accordance with the general penalties provision of the Broken Arrow Code. For the purpose of this section, misrepresentation shall be defined as follows:

- a. Providing information which is not true, unless the applicant in good faith believes it to be true; or,
- b. Providing information which is not true, where the applicant has no reasonable ground to believe the information to be true; or,
- c. The suppression of a fact requested on the application form; or,
- d. The suppression of a fact, which suppression when combined with the information provided is likely to mislead.

SECTION 15

ANNEXATION CLAUSE

15.1--Whenever any vacant lot, parcel, or tract of land, is annexed into the City of Broken Arrow, said territory shall be classified an "A-1, General Agricultural District; provided that any portion of such lot, parcel, or tract of land upon which is located a pond, or year-round wet creek, or which appears as a part of the floodway or drainage channel on the floodway maps produced by the U, S. Army Corps of Engineers dated October, 1982, is hereby classified an "FD", Floodway District. **(Ord 1590, adopted 5/790)**

15.2—(A) Whenever any individual lot or parcel, or any unplatted tract of land which is occupied by a lawful existing use and a viable structure is annexed into the City of Broken Arrow, said territory may be assigned a zoning classification by the City Council which zoning classification most closely corresponds to the actual primary use of said tract of land. This zoning classification shall be joined with the prefix "A" to indicate the transitional nature of the assigned zoning.

(B) Whenever any platted subdivision of land is annexed into the City of Broken Arrow, and (1) any lot or block thereof is occupied by a lawful existing use and viable structure, and (2) said use is in conformity with the City's adopted comprehensive plan, then said subdivision may be assigned a zoning classification by the City Council which zoning classification most closely corresponds to the actual primary use of the occupied portion of the subdivision. No transitional prefix "A" need be used. Any vacant lots may be built upon thereafter under the applicable Building Codes, setback and other requirements associated with that zoning and without the requirement to apply for the same zoning category without the transitional prefix.

(C) The City Planning Department shall investigate and recommend the most appropriate zoning classification for consideration by the City Council. The determination of the most appropriate recommendation shall be that classification having the least density, but allowing the primary use to be a lawful and conforming use by right. In the event more than one recommendation would meet this requirement, the determination of the appropriate recommendation will be made in accordance with the zoning classification which would have the fewest significant, non-conforming physical requirements. Provided that the City Council retains the right to annex occupied land and assign an "A-1" General Agricultural District as the transitional zoning category.
(Ord 2368, adopted 6-18-01)

15.3--All such property, regardless of the transitional zoning classification, shall be subject to all provisions of this ordinance. Annexed territory shall remain within the transitional zoning classification assigned at the time of annexation until rezoned to another classification in the manner prescribed by law.

15.4--The use of any land or structures given transitional zoning under paragraph 15.2, may not be physically expanded without site plan review and compliance with all applicable zoning requirements. Any unplatted land given transitional zoning under paragraph 15.2, on which the primary use is discontinued or proposed to be altered, must a) be platted, b) undergo site plan review and c) comply with all applicable zoning requirements prior to the new or expanded use of the land or any structures.

15.5--No new use may be commenced on land, which is assigned transitional zoning under 15.2 (A) above without obtaining appropriate conventional zoning. Zoning assigned under 15.2 (B) shall not be considered transitional zoning for this purpose, but may be changed upon a proper application

(Ord 2368, adopted 6-18-01)

15.6--Any land which was once annexed to the City of Broken Arrow, and which was later de-annexed shall be assigned to A-1 General Agricultural District upon any subsequent annexation.

SECTION 16

EXISTING LOTS OF RECORD

16.1--In any district where single-family residences are permitted, a single family detached dwelling may be erected on any lot which is of official record on the effective date of this ordinance, subject to the following restrictions:

- A. There must be provided a minimum lot width of fifty (50) feet.
- B. There must be provided a minimum of fifteen (15) feet in side yards with ten (10) feet on any one side.
- C. The front and rear yards must comply with the requirements set forth for the zoning districts within which the lot of record is located.

SECTION 17

NONCONFORMING BUILDINGS, STRUCTURES AND USES OF LAND

17.1--INTENT

Within the zoning districts established by this Ordinance or amendments that may later be adopted, there exists lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as ground for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be expanded or enlarged or improved after passage of this Ordinance.

17.2--NONCONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

17.3--NONCONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such structure may be enlarged or altered in a way which increases its nonconformity.
- b. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

- c. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

17.4--NONCONFORMING USES OF STRUCTURES

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No existing structure devoted to a use not permitted by this ordinance in that district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- b. Any nonconforming use may be extended throughout parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- c. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- d. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for six (6) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- e. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

17.5--NONCONFORMING USE OF LAND

Where, at the effective date of adoption or amendment of this ordinance, lawful uses of land exist that are no longer permissible under the terms of this Ordinance as enacted or amended, such uses may be continued, so long as they remain otherwise lawful, subject to the following provision:

- a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
- b. No such nonconforming use shall be moved in whole or in part of any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
- c. If any such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

SECTION 18

TELECOMMUNICATION TOWERS **(Ord 2407, adopted 12/3/01) (all of Section 18)**

18.1 Background and Purpose. The City Council finds that towers and other supporting structures present land use concerns, which should be dealt with by protecting residential uses, encouraging co-location, minimizing the number of towers in a manner which does not discourage market access or competition, and preventing or limiting adverse effects on off-site premises. The intent of these provisions is to provide for the continued establishment of new wireless communication providers and the expansion of existing wireless telecommunication services within the City, while simultaneously protecting neighborhoods, all through minimizing adverse visual and operational effects of facilities through careful design, sighting, screening, camouflage, and collocation requirements encouraging creative design and camouflage measures. Therefore, the following controls are enacted:

18.2 Definitions.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul Network provider means the provider of telecommunications services by land-based communication lines connecting the support structure of cellular sites to one or more telephone switching offices or long distance providers, or the public switched telephone network, and which functions as a backup or secondary communication system for one or more particular wireless telecommunications antenna sites.

Commercial Mobile Services includes cellular telephone services, personal communication services, and specialized mobile radio services as defined and regulated under the Telecommunications Act of 1996 and as further regulated by the rules of the Federal Communications Commission.

Camouflage or “Stealth” technology means the use of color, screening or other facades to make a tower or equipment shed appear to be a part of another type of structure, such as a flagpole, bell tower, clock tower, steeple, or related items.

Height means the vertical distance between the mean ground elevation and the tallest point on the structure or equipment.

Mean Ground Elevation means the average elevation of the surface of the lot or parcel, prior to the start of construction of a communication tower or other supporting structure.

Personal Wireless Telecommunication Services includes commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as regulated under the Telecommunications Act of 1996.

Temporary antenna means an antenna and supporting equipment used on a temporary basis in conjunction with a special event, emergency situation, or the failure of the regular equipment.

Tower means any non-habitable structure that is designed and constructed as one of its primary purposes the support of one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

Unlicensed Wireless Services means the offering of telecommunication services using duly authorized devices which do not require individual licenses, but excluding direct to home satellite services.

For purposes of this Code, an antenna is not included within the meaning of the word “structure”.

18.3 Prohibiting fifty foot or greater towers without a permit. No person or entity shall hereafter construct, own, or operate any communication tower in excess of fifty (50) feet in height above the mean elevation of the ground on which it is built, unless said person has obtained a building permit to construct from the City of Broken Arrow.

18.4 Towers on Government Land. Towers located on property owned, leased, or otherwise controlled by the governing authority of any City, County, public school district, State, or by any agency of the United States of America, will be exempt from the remaining requirements of this ordinance if in compliance with Sections 18.6 through 18.10 inclusive and no more than one hundred and twenty (120) feet in height; provided that such exemption will only be available if a commercial lease or license authorizing such antenna or tower has been approved by the applicable governing body and the tower owner shall file a permit application for purposes of keeping a complete record of towers within the City; the permit shall be issued administratively. The City Council expressly finds that governmental controls through proprietary devices such as a commercial lease are an adequate substitute for governmental control through regulatory devices.

18.5 Towers of Limited Height on Residential Land. No tower will hereafter be constructed in excess of fifty (50) feet in height above mean ground elevation on any property actually used for a single-family residential purpose, or any vacant land which is intended for residential use on the Comprehensive Plan (Level 1 and Level 2), or which actually has any “R” district classification and use. Any tower constructed as an accessory use on residentially zoned land which is developed and utilized for institutional purposes, shall not be constructed in the front yard, or within the minimum side yard requirements for the applicable zoning district. Provided that camouflage technology may

be permitted to be used on a tower that does not exceed one hundred twenty (120) feet and the camouflaged tower may be placed in the front yard if concealment of both the tower and the equipment structures are accomplished. (e.g. a tower disguised as steeple or comparable building element at a site for a place of worship, or a flagpole design at a public school, or an obelisk at other institutions).

18.6 Application Requirements. Each applicant for a permit to build a tower shall provide to the Broken Arrow Planning Department, an inventory of all the existing and approved towers or permits for other locations that are within one-half (½) mile of the site applied for; said inventory will include specific information about the location, height, and design of each tower. If the towers within the applicant's inventory have been designed for co-location, a description of the facilities and heights for the possibility of co-location shall be included within the inventory. Copies of the standard co-location lease shall also be provided, with appropriate blanks for physical dimensions and price, but including all standard terms and conditions. Said inventories and form contracts may be shared with other applicants applying for any approvals under this code; provided that the City does not warrant the accuracy of any such information shared with other applicants. The applicant for a permit shall also provide the description, identity and contact for the backhaul network provider who will serve that site. Applicants for permits involving collocation shall specify in the application the features of the tower that adapt it for collocation, such as the number and location of portholes for cables, the proposed ground footprint of multiple equipment sheds and cabinets, and related items. The application shall also include elevations of all proposed shielding, screening and the details of materials and color for the facility. A non-refundable fee of one hundred dollars (\$100.00) per application shall accompany each application.

18.7 Construction Standards.

A. The tower shall either maintain a galvanized steel finish, or be painted a uniform neutral color (unless color is governed by applicable standards of Federal Aviation Administration), so as to reduce visual intrusiveness. Cabling shall be contained interior to the structure of the tower, or wrapped in a cover with a matching color scheme to the tower. The use of camouflage technology so that the tower appears to be a part of the primary building on site is also acceptable. The design and maintenance of the equipment, buildings, cabinets or related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting or the built environment of the primary use.

B. If an antenna or series of antennas are installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment visually unobtrusive.

C. Towers shall not be artificially lighted, unless such lighting is required by the Federal Aviation Administration or other applicable authority (e.g. the tower is used as a flagpole).

D. All towers, antenna, and related equipment shall meet or exceed current standards and regulations of the Federal Aviation Administration and the Federal Communications Commission, together with the regulations of any other agency of the federal government with the authority to regulate towers and antennas.

E. Antennas and associated supports, cables, brackets, and related equipment shall not be mounted on any tower or other supporting structure by any method of punching, drilling, or other means which may weaken the tower or supporting structure.

F. All tower sites shall be served by a driveway from a public street and said driveway shall be paved with an all weather surface. Provided that sites in areas of restricted street access, may be served by driveways from paved public or private parking lots. The Engineering Department must approve the size of “tin horns” or other drainage structures prior to the start of construction.

G. All towers and all antenna support structures that are between fifty-one (51) and one hundred (100) feet in height (inclusive) shall be constructed to support a minimum of two (2) antenna arrays with the cabling interior to or otherwise concealed within the structure. All towers that are in excess of one hundred (100) feet in height shall be constructed to support a minimum of four (4) antenna arrays with the cabling interior to or otherwise concealed within the structure.

H. Construction must otherwise comply with the current requirements of the Broken Arrow Building Code.

18.8 Maintenance, Operation and Removal. The owner of the tower shall ensure that it is maintained in compliance with the standards contained in the applicable local building codes and the applicable standards for towers established by the electronic industries association, as amended from time to time, in order to insure the structural integrity of the tower. The failure to maintain structural integrity through compliance with these standards is hereby declared a public nuisance and the towers may be abated including the removal of the tower under authority of and in compliance with the City Council's powers to declare and abate public nuisances. No antenna may be used which, by design or by actual operation, causes interference on any frequency actually used by any police, fire, or public ambulance services having authority or jurisdiction over any portion of the City of Broken Arrow. Each tower owner shall provide a maintenance bond to assure the maintenance of the equipment building(s) and the support or tower structure, including the costs of removal in the event the facility is abandoned for more than one year.

18.9 Administrative approval of Permits. The Broken Arrow Planning Department may administratively approve the installing of antenna on:

A. C-2, C-5 and industrial districts. Towers are lawful uses permitted administratively when located as accessory uses on any land in industrial zoning districts or and developed land in C-2 zoning districts or C-5 zoning districts, which districts are equal to or larger than two and one-half (2 ½) acres; provided that such towers shall be set back from any existing adjacent residential lot boundary equal to two hundred percent (200%) of the total height of the tower or other supporting structure, shall not exceed two hundred (200) feet in height as to industrial property or one hundred and twenty (120) feet in commercial property, and shall comply with the terms of this ordinance and any future amendment thereto. Said towers in commercial property must also use camouflage technology such as flagpoles, obelisks or other approved “stealth” coverings. Said towers in industrial property must meet the front and side yard setback requirements for the subdivisions.

B. All commercial and industrial districts; existing structures. Antennas may be installed on existing structures other than a tower (such as commercial or industrial buildings, billboard sign, power transmission tower, water tower, or other free standing non-residential structure,) which is sixty (60) feet in height or greater, if and only if the additional antennas or supports create a new structure with a cumulative height not to exceed one hundred and twenty (120) feet from the mean ground elevation.

C. Existing towers and poles. Antennas may be installed on any existing communication tower or light pole of any height, so long as the addition of said antennas add no more than twenty (20) feet cumulative to the height of the existing tower or light pole. Any associated equipment building must be located in conformity with the generally applicable setback requirements of the zoning district and appropriately screened or landscaped. Said installation adding twenty (20) feet of height may occur no more than one occurrence per tower or light pole. For equipment compounds that are served by a dirt road or drive, the new equipment owner shall pave at least the first twenty (20) feet of the dirt road or drive that is adjacent to the street.

D. Other existing structures. Antennas may be installed on an existing structure other than a communications tower (such as a building, sign, light pole, water tower, or other free standing, non-residential structure), which is less than sixty (60) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure

E. Non commercial or non industrial land. Antennas may be installed on existing structure in the agricultural, residential or office land through an administrative permit under the following conditions:

1. On an existing structure other than a communications tower (such as a building, sign, light pole, water tower, or other free standing, non-residential structure, which is less than sixty (60) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure;

2. On an existing tower of any height, and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna cumulatively adds no more than twenty (20) feet to the height of the existing tower and the tower remains set back from any existing adjacent residential lot boundary equal to one hundred twenty percent (120%) of the total new height of the tower;

3. On certain developed public properties including but not limited to water towers, water treatment plants, sewer treatment facilities, police stations, fire stations, ambulance stations, equipment maintenance facilities, and lighted and enclosed sports facilities such as football stadiums, baseball and softball parks, but not practice facilities at unlighted or unsecured locations which may be temporarily used for sporting events, nor in any open parks or greenbelts;

4. On the roofs of public high schools, intermediate high schools, middle schools, elementary schools, and office buildings, so long as such addition does not add more than thirty (30) feet to the height of the existing structure; or

5. On an existing billboard located within the limited access highway corridors so long as the total height does not exceed one hundred and twenty (120) feet; provided that if the support for the billboard lacks sufficient strength for the new height, then the billboard may be removed and adequate support for both structures may be made, and a billboard of the same or smaller size be reinstalled at the former height. Existing billboards, which are outside of the limited access highway corridor, may be used, so long as the addition adds no more than twenty (20) feet to the height of the billboard; for purposes of this section, the limited access highway corridors shall be defined as the Broken Arrow Expressway within Tulsa County, the Creek Turnpike, the Muskogee Turnpike and any land within one hundred fifty (150) feet on either side, but said definition shall exclude State Highway 51 in Wagoner County and all spurs or older routings.

F. Other Industrial land. The Planning Department may also approve tower construction if: the new tower to be constructed is within an industrially zoned area, the industrial district is at least ten (10) acres in size, the tower location is no closer than three hundred and fifty (350) feet to a residential structure, and the tower is no greater than one hundred (100) feet in height; or, on an existing tower or supporting structure as a co-location.

G. Temporary Antennas. Temporary antennas shall only be allowed in the following instances:

1) In conjunction with a festival, carnival or other activity requiring a special event permit from the city; and the antennas shall only be allowed commencing from one week prior to the event and be removed one week after the event; or

2) In conjunction with a natural calamity such as a storm or other emergency as declared by the City's Police or Fire Departments, which calamity has damaged or destroyed the regular facilities, and the temporary facilities are needed to restore service until the damage can be repaired or replaced. Provided that the facility owner or the service provider shall notify the City within twenty-four (24) hours of the outage, and must receive an Administrative Permit if the temporary facility will be required for more than seven (7) days. Provided further that any temporary facilities that remain in place for in excess of six (6) months must receive a permit from the City Council for the period in excess of six (6) months.

H. Tower Design Certification Any information of an engineering nature that the applicant submits to the City Council, whether civil, electrical, structural or mechanical, shall be certified in writing, by an Oklahoma licensed, professional engineer. Such information shall include (but not be limited to) anticipated tower height, tower type, construction materials, declared wind speed in mph, ice load in inches, anticipated antennae loading for the design, and engineered appurtenance loading.

I. Site Plan Each applicant requesting a permit under this ordinance, shall submit a scaled site plan, lighting plan, and scaled elevation view together with other supporting drawings, calculations, and documentation, all signed and sealed by appropriate licensed engineers or other appropriate professionals, showing the location and dimensions of all improvements proposed for the site. This information shall include existing and proposed topographical and planimetric drawings and all significant features that support collocation (e.g. provisions for interior cabling, portholes, the footprint for multiple equipment sheds and cabinets, etc.).

J. Screening and Landscaping Landscaping and fencing requirements on existing towers and equipment facilities must be properly maintained prior to the Planning Department administrative permit being issued, but new or additional requirements shall not be added for purposes of collocation.

18.10 Council Permits for Towers. If the tower or antenna may not be permitted administratively as described above in Section 18.4, Section 18.5, or in Section 18.9, then no tower may be constructed without securing a permit from the Broken Arrow City Council.

A. Applications for a tower permit from the City Council shall first obtain a specific use permit from the Planning Commission for each site, under the standards, procedures, and costs under the Broken Arrow Zoning Code.

B. The City Council may impose conditions which it, in good faith, believes is reasonably necessary to minimize any adverse effect of the proposed tower on adjoining properties, and which foster competition by encouraging multiple uses on co-location structures. For purposes of evaluation of the application, the use of a billboard as a basis for a tower shall be considered co-location, even if only one antenna array is to be placed thereon.

C. Any information of an engineering nature that the applicant submits to the City Council, whether civil, electrical, or mechanical, shall be certified in writing, by an Oklahoma licensed, professional engineer. Such information shall include (but not be limited to) anticipated tower height, tower type, construction materials, declared wind speed in mph, ice load in inches, anticipated antennae loading for the design, and engineered appurtenance loading.

D. Each applicant requesting a City Council permit under this ordinance, shall submit a scaled site plan, lighting plan, and scaled elevation view together with other supporting drawings, calculations, and documentation, all signed and sealed by appropriate licensed engineers or other appropriate professionals, showing the location and dimensions of all improvements proposed for the site. This information shall include existing and proposed topographical and planimetric drawings and all significant features that support collocation (e.g. provisions for interior cabling, portholes, the footprint for multiple equipment sheds and cabinets, etc.).

E. The City Council may require particular evidence or special conditions in the event the Council determines the proposal may potentially contaminate water supplies, contaminate surface waters or soil, interfere with drainage, or interfere with the primary use of the public property.

F. All sized freestanding towers are prohibited in A-1 and RE zoning districts, including areas that are in fact used as agricultural or residential estate areas even though zoned at more intense levels. Towers in excess of 100 feet are prohibited in R1, R2, R3, and R4 zoning districts. Applicants in such areas shall be required to establish the necessity of the tower and all elements of the application by clear and convincing evidence.

G. When an applicant for a tower permit, works with a developer of residential land, and designs a subdivision which uses a flagpole and guard house (or comparable camouflage) as elements within the design of the subdivision entrance or private park reserve, the approval of the final plat shall include the permit for the tower at a height not to exceed eighty (80) feet and used as the flagpole, and an equipment cabinet within the guardhouse.

18.11 Factors Considered for City Council Approval. The City Council shall consider the following factors in determining whether or not to issue a permit for a tower, although Council may modify one or more of these criteria if, in the particular circumstances of the application, Council concludes that the goals and intent of this ordinance are better served by such modification. Factors to be considered are:

- A. Height of the proposed tower;
- B. Proximity of the tower to residential structures and adjacent residential lot boundaries;
- C. Nature of uses on adjacent and nearby properties;

- D. Surrounding topography;
- E. Surrounding tree coverage and foliage;
- F. Design of the tower, with particular reference to those design characteristics, which have the effect of reducing or eliminating visual obtrusiveness, or providing camouflage;
- G. Proposed routes of ingress and egress;
- H. Whether or not the tower is constructed so as to be available for co-location in the future; and
- I. Whether or not there are suitable, existing towers or other supporting structures capable of meeting the technological needs of the applicant.

18.12 Evidence of capacity. All evidence relating in any manner that in essence indicates that the application location is needed to improve the capacity of the system and is to address a specific and local geographic problem must be submitted in writing, and signed and sealed by an engineer, licensed in the State of Oklahoma.

18.13 Warning Sirens. All applications for new towers shall include an examination of the City's Whelen Warning Siren Location Map. If the new tower site is in a location where the Whelen Warning Siren Location Map indicates that a siren is proposed, then the permit may be conditioned on the granting of permission for the City of Broken Arrow to place and operate a storm siren warning system on the completed tower, at a height to be mutually agreed, but typically between twenty (20) and thirty (30) feet above the mean lot elevation, unless such location would create a technical problem for the applicant's system. Costs of the installation and operation of the warning siren shall be solely the responsibility of the city. Applicant shall advise at the time of the application what costs, rental, or other fees will be required for the placement of the warning siren.

18.14 Radius Report. If the application is for a tower in excess of two hundred (200) feet in industrial areas or if in excess of one hundred and twenty (120) feet in any other zoning district, and Council action is required, then the applicant must provide a list of property owners within a three hundred (300) foot radius of the perimeter of the lot on which the tower is proposed, and the City shall notify the persons on the list by mailing notice of the hearing, all at applicant's expense.

18.15 Collocation Contracts. Any applicant who claims that a proposed tower will be used for collocation shall provide a form contract, which will be used for collocation for at least five (5) years after construction. Said contract shall only have blanks for the name of the lessee, date, location and size of the equipment shed, height of the antenna array and final price.

18.16 Effect of Existing Tower Availability. No new towers should be permitted by the Council, unless the applicant demonstrates to the City Council's reasonable satisfaction that no existing tower or other structure can accommodate the applicant's proposed antenna. Evidence of this unavailability may consist of any of the following:

A. No existing towers or structures are located within the geographic area required to meet applicant's engineering, capacity, or technical requirements;

B. Existing towers or structures are not of sufficient height or structural strength to meet the applicant's engineering, capacity, or technical requirements;

C. Applicant's proposed antenna would cause electromagnetic interference with existing antenna on existing towers or structures, or the existing antennas on the existing towers or structures would cause electromagnetic interference with applicant's proposed antenna;

D. The fees, costs, or contractual provisions required by the owner of the existing tower in order to share said tower structure are unreasonable. (In this regard, eight (8) year rental costs exceeding the costs of site acquisition and tower construction including engineering and design fees, are presumptively unreasonable); and

E. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

18.17 Setbacks and Security. All towers must be set back a minimum distance of one hundred twenty percent (120%) of the total height of the tower and structure from any adjacent residential lot boundaries unless a greater setback is required by other provisions of this ordinance. The location of towers, guy wires, and accessory facilities, shall meet the minimum zoning district setback requirements and shall not be in the front yard of the principal use. Towers shall be enclosed by security fencing not less than eight (8) feet in height together with such appropriate anti-climbing devices as may be best utilized by the type of tower involved; provided the Council may waive security fencing requirement if other features of the site provide adequate substitute security. Provided further, that camouflage technology may be used to justify a reduction or elimination of front yard setbacks as to the tower.

18.18 Screening and Landscaping

A. Screening. Tower facilities shall be visually buffered by a hedge of low maintenance evergreen plant materials and approved opaque screening materials, which effectively screen the view of the tower compound and accessory facilities.

B. Landscaping. Existing trees and natural landscape and elevations around the site shall be preserved to the maximum extent possible. Shrub planting materials which are used for screening must be a minimum five (5) gallon evergreen; the evergreens must be capable of reaching the full height of the fencing materials at full growth. Trees shall be at least two (2) inches in caliper. Plant materials, which die or do

not effectively buffer the fencing materials, shall be replaced. The landscaping plans shall include provisions for irrigation of all new materials proposed to be planted, or the landscape maintenance shall be bonded by insurance or other surety company licensed to do business in Oklahoma; provided that a single bond in an adequate amount may be used for multiple sites.

C. Fencing. The privacy fencing or similar approved opaque screening materials shall be a minimum of eight (8) feet in height; a greater height of fencing shall be used as necessary to screen taller equipment sheds within the compound. Provided that equipment sheds which are adjacent to and camouflaged to resemble a structural element of the primary building on site do not have to be fenced.

D. A landscaping plan shall be included with the application and shall include operational information on how the planting materials will be maintained, irrigated and fertilized.

E. Where a new application is made for an existing site at which the landscaping and screening has not been maintained, the issuance of the permit may be conditioned on the completion of the needed corrective action.

18.19. No billboards may be added to communication towers except under 18.9(E)(5).

18.20 Written Decision. Any decisions to deny an application for the placement, construction, modification of towers for cellular or personal communication service, or specialized radio mobile service shall be conveyed to the applicant in writing, together with the summary of the evidence which supports a denial of the application. A copy of the minutes of the meeting, which contains some of the evidence, may be used in place of or in addition to other summaries. The decision shall further contain the date at which the public body denied the application. The applicant has thirty (30) days after the denial of the application, within which to seek judicial review. Therefore, the City will attempt to give notice in writing within five (5) business days of the denial of the application, unless the applicant or applicant's representative was present in the meeting at which the denial was announced.

18.21 Five Year Permits, Notice of Use; Removal of Abandoned Towers.

A. Any tower that is not actually used as an antenna support for a continuous period of twelve (12) months shall be considered abandoned, and the permit owner(s) for such antenna(s) or tower shall remove same at their expense within ninety (90) days of receipt of notice from the City of Broken Arrow, notifying the permit owner of said abandonment. Antennas, which do not have electrical power, shall not be considered in use.

B. In the event that such a tower is not removed, notice of the intent by the city to remove shall be given to the applicant and to the owner of the real estate on which the tower is located if different from the applicant. Abandoned antennas and towers are hereby declared a public nuisance, removable by the City Council in accordance with nuisance abatement procedures or through the claims on a posted bond.

C. Permits shall be renewed at the end of each five (5) year term, provided the permit owner delivers to the City, within thirty (30) days prior to the expiration of the five (5) year term, a certification which displays that the tower is in use, the identity of the owners of the antennas located thereon, whether the tower is suitable for additional collocation, whether the standard lease contract has been changed (together with a copy of such changes), evidence that all conditions to the issuance of the permit are being satisfied, and evidence that all property taxes that are due on the tower and related facilities have been paid. Should the permit owner fail to satisfy these conditions then the permit shall automatically terminate at the end of the five (5) year period. Any permit for such tower and facilities that is terminated may only be re-issued by following and satisfying the standards applicable at the time required for a new application.

18.22 Driveway for Towers. Any existing tower site which lawfully uses an unpaved driveway to access a public street, and which driveway allows the deposit of dirt, gravel or similar material to be deposited on the public streets during rain conditions, shall be considered a public nuisance, and may be abated in accordance with the general ordinances dealing with nuisance abatement.

18.23 Permits Limited if Not Built. A permit for a tower shall be valid for no more than one year, unless a valid building permit is issued and construction proceeds diligently.

18.24 Proprietary powers reserved. Nothing in this ordinance concerning the regulation of what is legally permissible, or legally forbidden, interferes with the proprietary right of the City Council to control the property held in the City's name or in the name of any of its trusts as either a corporate owner or as public trustee.

(Ord 2407, adopted 12-3-01)

SECTION 19

LANDSCAPE REQUIREMENTS (Ord 2151, adopted 6/15/98)

19.1 – Preface

Landscaping, including trees, shrubs, flowers, vegetation, and landscape elements are recognized as effective means of beautifying and enhancing the livability of the City of Broken Arrow, by making more effective and aesthetic use of open space and other uses of land. In addition, trees provide cooling of paved areas and habitat for urban wildlife.

19.2 - Purpose and Intent

The objective of this Ordinance is to establish procedures and practices governing the protection, installation, and long-term maintenance of trees, vegetation, and other landscape elements within the City of Broken Arrow. The City's purpose is as follows:

- a. To promote the beautification of the City of Broken Arrow.
- b. To create for present and future generations a planned pattern for the urban forest within the City of Broken Arrow.
- c. To promote reasonable preservation and replenishment of landscaping in new developments and on existing commercial and public properties and to provide guidelines for protection of trees during construction, development, or redevelopment.
- d. To safeguard and enhance property values and to protect public and private investment.
- e. To provide an ordinance that is reasonable, enforceable, and easily understood by all affected parties.
- f. To provide standards for the installation and placement of landscaping to ensure the safety of the general public.
- g. To promote the healthy maturing and longevity of landscaping by providing a standard guide for plant selection, installation, and placement.
- h. To promote an awareness of the benefits of effective landscaping among the various City of Broken Arrow departments, the public utility providers, the development community, individual businesses, and property owners.

19.3 - Definitions Relating to this Ordinance

ARTERIAL STREET: A street designated as either a "primary arterial" or a "secondary arterial" on the Transportation Plan Map in the City of Broken Arrow Comprehensive Plan.

BERM: A mound or bank of earth covered with either grass or other plant material.

CALIPER: The diameter of the tree trunk measured at six (6) inches above ground level for a tree trunk having a diameter of four (4) inches or less and the diameter of the tree trunk measured at twelve (12) inches above ground level for a tree trunk having a diameter exceeding four (4) inches.

DAMAGE: Includes any intentional or negligent act which will cause perennial vegetation to decline and die within a period of three years, including but not limited to, such damage inflicted upon the root system by the compaction of the soil within the drip line of a tree during the operation of heavy machinery; the change of the natural grade above the root system, around the drip line, or around the trunk of a tree; and damage from injury or from fire to vegetation which results in or permits infection or pest infestation. Damage also includes application to soil, within drip line of any tree or shrub, of petroleum products used in machinery or misuse of pesticides, particularly herbicides.

DRIP LINE: The periphery of the area underneath a tree, which would be encompassed by perpendicular lines extending from the exterior edges of the crown of the tree. The area under or around the tree containing the fragile feeder roots of the tree.

GROUND COVER: Low plants which grow to form a continuous cover over the ground, such as vinca, English ivy, grass, or like material.

HARDSCAPE: Non-deleterious materials used to augment the beauty of a landscaped area. "Hardscape" may include brick, stone or rock walls, fountains, ponds, pools, planter or retaining walls, but it excludes artificial plants, trees, or other artificial vegetation.

IRRIGATION SYSTEM: Shall include one or more of the following: (1) "Underground Sprinkler System" normally consists of a subterranean piping system consisting of pipe, valves, wires, controller system, approved back-flow preventor, discharge points, installed for the purpose of transporting and providing water to large, non-specific areas of the landscape area; (2) "Drip System" normally consists of an above ground piping system consisting of pipes, valves, wires, controller system, approved back-flow preventor, emitters, installed for the purpose of providing water to specific plant locations; (3) "Hose Attachment" normally consists of a sub-terranean piping system with a manual or mechanical valve located within one hundred (100) feet of all landscaped areas allowing attachment of a garden hose for the purpose of providing water to specific as well as non-specific landscaped areas.

LANDSCAPE AREA: The unpaved area which contains grass, shrubs, flowers, ground cover, trees or native plant materials of any kind and which may include decorative fixtures or accouterments such as rock, pools, and planters. Does not include artificial plants, trees, or vegetation.

LANDSCAPED EDGE: Landscape area required to be provided adjacent to a street or highway in multifamily, and non-residential areas.

LANDSCAPE RESERVE: Landscape area provided adjacent to an arterial street for single family, two-family, and mobile home development.

LANDSCAPE ISLAND: Unpaved area located within or protruding into a parking lot or the center of an entry into a development's drive or street. The area of a landscaped island is measured from back of inside curb to the back of inside curb.

LANDSCAPING: Any living organic plant material including trees, shrubs, flowers, ground cover, vegetation, vines or grass.

MAINTAIN, MAINTENANCE: In reference to landscaping includes irrigating, pruning, mulching, mowing, spraying, fertilizing, propping, bracing, treating for disease or injury, and any other similar acts which promote the life, growth, health or beauty of the landscape vegetation.

THREE (3) GALLON SHRUB: "Gallon" indicates the standard unit of measure determining the size of a nursery grown plant material as defined by the American Standard for Nursery Stock, American Standards Institute, Inc. 230 Southern Building, Washington D.C. 20005, or any other approved nursery organization recognized by the City of Broken Arrow. Shrub means a bushy, woody plant, usually with several permanent stems and usually not over ten feet high at its maturity.

TREE: Any self supporting woody plant having one or more defined stems or trunks in a diameter of two (2) inches or more and having a defined crown which customarily attains a mature height of eight (8) feet or greater.

19.4--General Landscaping Requirements

These standards shall apply to all areas where landscaping is required by this ordinance.

- a. Required landscaping shall not include artificial plants, trees, or other artificial vegetation.
- b. Required new landscaping shall be irrigated by one of the following methods:
 1. An underground sprinkling system;
 2. A drip system; or

3. A hose attachment, with such attachment within one hundred (100) feet of all four (4) landscaped areas
- c. Irrigation system shall be installed to City of Broken Arrow codes.
- d. Landscaping, including berms, shall not obstruct pedestrian and/or vehicular traffic visibility at street intersections or at access points to streets.
- e. All plant material shall be maintained in a healthy and growing condition, and must be replaced in accordance with Section 19.7.e if damaged, destroyed, or removed.
- f. Landscaped areas shall be kept free of trash, litter, and weeds.
- g. Anyone desiring to install and maintain landscaping materials, landscape or decorative lighting, or irrigation facilities within the City right-of-way must obtain a landscaping permit from the City of Broken Arrow Inspections Department.

19.5 -- Non-residential Landscaping Requirements

These standards shall apply to all non-residential districts except C-1, 0-1, and C-1P.

- a. Landscaping Along Street Right-of-Way: All commercial, industrial, and other non-residential uses, except in the C-1, 0-1, and C-1P district shall comply with the following streetscape requirements:
 1. A landscaped edge shall be provided adjacent to all highways, frontage roads, arterial and collector streets, and entrances through non-residential districts to residential subdivisions. The landscaped edge shall be a minimum width of ten feet, exclusive of street right-of-way. Within the landscaped edge, one tree from Section 19.14 (two (2) inch caliper minimum) shall be planted per fifty (50) lineal feet of landscaped edge. The number of required trees shall be calculated solely on the linear frontage of the required landscaped edge and shall be rounded to the nearest whole number. Trees may be grouped together or evenly spaced.
 2. Where parking lots and drives abut the landscaped edge, ten (10) shrubs (3 gallon minimum) shall be planted per fifty (50) lineal feet of abutment to the landscaped edge. These shrubs are in addition to the required number of trees. The number of required shrubs shall be calculated solely on the linear frontage of parking lot/drive abutment to the required landscaped edge and shall be rounded to the nearest whole number. A berm or masonry wall may be placed within the landscaped edge in lieu of the required shrubs. The berm or masonry wall must be at least thirty (30) inches above the top of the parking lot adjacent closest to the street.

3. The Planning Commission may reduce the width of the required landscaped edge during site plan review when the reduction is required for public improvements.
 4. No site plan approved by the Planning Commission prior to the effective date of this section shall be required to conform to the landscaping requirements of this section unless the site plan is being resubmitted to the Planning Commission and there is a thirty percent (30%) or more increase in the square footage of building area or parking lot.
- b. Interior Parking Lot Landscaping: Landscaped areas shall be established and maintained in off-street parking areas as follows:
1. For site plans of two and one-half (2.5) acres or less in size, no parking space shall be located more than fifty (50) feet from a landscaped area. Landscape islands in parking lots shall contain at least one hundred (100) square feet, with a minimum width of ten feet. Landscape areas next to buildings which are at least 3 feet in width and contain at least one hundred (100) square feet, may be included as landscaped areas from which to measure. The landscape edge referenced in Section 19.5.a.1 is not to be included as a landscaped area from which to measure.
 2. For site plans greater than two and one-half (2.5) acres in size, no parking space shall be located more than seventy-five (75) feet from a landscaped area. Landscape islands in parking lots shall contain at least two hundred (200) square feet, with a minimum width of ten feet. Landscape areas next to buildings which are at least three (3) feet in width and contain at least one hundred (100) square feet, may be included as landscaped areas from which to measure. The landscape edge referenced in Section 19.5.a.1 is not to be included as a landscaped area from which to measure.
 3. At least one (1) tree from Section 19.14 (two (2) inch caliper minimum) shall be planted for every fifteen (15) parking spaces. The number of required trees shall be rounded to the nearest whole number. These trees shall be planted inside or within fifteen (15) feet of the parking lot, but shall not be placed in the landscaped edge referenced in Section 19.5.a.1
 4. All landscaped areas shall be protected by a raised six (6) inch concrete curb. Pavement shall not be placed closer than four and one-half 4.5 feet from the trunk of a tree.
 5. Where an existing parking area is altered or expanded to increase the number of spaces to a total of more than twenty (20), interior landscaping shall be provided on the new portion of the lot in accordance with the above standards.

6. A landscape island of at least ten (10) feet in width and eighteen (18) feet in length shall be provided on each side of all drives which provide access from the street to the property.

19.6 - Residential Landscaping Requirements

These standards shall apply to all residential districts.

a. Multiple Dwelling Landscaping Requirements:

1. A landscaped edge shall be provided adjacent to all streets and highways. The landscaped edge shall be a minimum width of thirty-five (35) feet, exclusive of street rights-of-way. Within the landscaped edge, one (1) tree from Section 19.14 (two (2) inch caliper minimum) shall be planted per fifty (50) lineal feet of landscaped edge. The number of required trees shall be calculated solely on the linear frontage of the required landscaped edge and shall be rounded to the nearest whole number. Trees may be grouped together or evenly spaced.
2. Where parking lots and drives abut the landscaped edge, ten (10) shrubs (3 gallon minimum) shall be planted per fifty (50) lineal feet of abutment to the landscaped edge. These shrubs are in addition to the required number of trees. The number of required shrubs shall be calculated solely on the linear frontage of parking lot/drive abutment to the required landscaped edge and shall be rounded to the nearest whole number. A berm or masonry wall may be placed within the landscaped edge in lieu of the required shrubs. The berm or masonry wall must be at least thirty (30) inches above the top of the parking lot closest to the street.
3. No site plan approved by the Planning Commission prior to the effective date of this section shall be required to conform to the landscaping requirements of this section unless the site plan is being resubmitted to the Planning Commission and there is a thirty percent (30%) or more increase in the square footage of building area or parking lot.
4. At least one (1) tree from Section 19.14 (two (2) inch caliper minimum) shall be planted per ten (10) parking spaces. These trees shall be planted inside or within fifteen (15) feet of the parking lot, but shall not be placed in the landscaped edge referenced in Section 19.6.a.1.
5. At least two (2) trees from Section 19.14 (two (2) inch caliper minimum) and five (5) shrubs (three (3) gallon minimum) shall be planted per housing unit. This landscape material cannot be included in the landscaped edge along the street frontage. However, it can be included in the other open space areas required by the zoning ordinance.

6. All landscaped areas shall be protected by a raised six (6) inch concrete curb. Pavement shall not be placed closer than four and one-half (4.5) feet from the trunk of a tree.
 7. A landscape island of at least ten (10) feet in width and eighteen (18) feet in length shall be provided on each side of all drives which provide access from the street to the property.
- b. Single Family (R-1 through R-6), Two-Family (R-4 through R-6), and Mobile Home (RMH) Landscape Requirements
1. At least one (1) tree from Section 19.14 (two-inch (2") caliper minimum) per fifty (50) lineal feet of frontage along an arterial street shall be planted along the arterial street. The number of required trees shall be calculated solely on the linear footage and shall be rounded to the nearest whole number. The trees may be grouped together or evenly spaced. The general location of proposed trees shall be shown on the preliminary plat. A landscape plan shall be submitted with the final plat. The location and type of trees proposed shall be reviewed by the Technical Advisory Committee (TAC). The Planning Commission may waive the perimeter landscaping requirement for individual developments if they determine a suitable planting location is not available. If a "Landscape Reserve" is designated on the plat next to an arterial street, the thirty-five (35) foot building setback line for lots adjacent to the Landscape Reserve can be from the ultimate right-of-way boundary as shown in the Comprehensive Plan.
 2. All required landscaping must be planted prior to the issuance of final inspection of any or all dwelling units in the subdivision. Further, if all required landscaping is not completed within one hundred-twenty (120) days of the issuance of the first building permit in the subdivision, no further building permits shall be issued. No manufactured housing units shall be allowed to be installed, until all required landscaping is complete.
 3. Perpetual maintenance of the required landscape material must be provided. A home owners association responsible for such maintenance is encouraged.

19.7 - Tree Preservation and Protection

The purpose of this section is to establish incentives for the preservation of existing trees within the City of Broken Arrow and to provide guidelines for the protection of trees during construction, development, or redevelopment.

- a. No clear-cutting of land is allowed without a grading permit from the Engineering Department.
- b. Tree Preservation Credits - For every tree (eight (8) inch caliper or larger) preserved in an area where landscaping is required by this ordinance, the developer shall be given credit for two (2) trees as required by this ordinance. Only trees in good condition having been protected in accordance with the Tree Protection Guidelines shall be considered for credit.
- c. Landscape Plan - The landscape plan that is required to be submitted shall include the approximate location, size (caliper and height), condition and common name of each tree to be preserved for which the applicant is requesting tree credits.
- d. Guidelines for Tree Protection - Developers are encouraged to adhere to the following tree protection measures on all construction sites as applicable:
 1. Prior to grading, construction, or land development, the developer shall clearly mark all trees to be preserved.
 2. The developer shall erect a plastic mesh fence a minimum of four (4) feet in height at the drip line around each tree or group of trees to prevent the placement of debris or fill within the drip line of any tree.
 3. During the construction stage of development, the developer shall prohibit cleaning, parking, or storage of equipment or materials under the canopy of any tree or group of trees to remain. Nor should the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy of any tree or groups of trees to remain.
 4. No attachments or wires of any kind, other than those of a protective nature, should be attached to any tree.

5. No fill or excavation may occur within the drip line of a tree to be preserved unless there is a specific approved plan. Major changes of grade (six inches or greater) will require additional measures to maintain proper oxygen and water exchange with the roots. With major grade changes, a retaining wall or tree well of rock or brick should be constructed around the tree no closer than the drip line. The retaining wall should be constructed so as to maintain the existing grades around a tree or group of trees.
 6. No utility, plumbing or irrigation trenches should be dug within the drip line.
 7. At no time should a wall, pavement, or porous pavement be placed closer than four and one-half (4.5) feet or one foot for every two (2) inches in caliper, whichever is greater, to the trunk of the tree.
 8. If a patio, sidewalk, drive or parking lot must be placed within the drip line of an existing tree, material such as a porous (turf) pavement that will allow the passage of water and oxygen will be required,
 9. No twine shall be left on the tree such that it would girdle the trunk causing premature death.
 10. A stop-work order may be issued by the City of Broken Arrow at any time if tree preservation requirements are not being met for trees designated to be preserved to meet the requirements of this ordinance.
- e. Replacement of Trees - Replacement trees will be required when any tree that was shown on a landscape plan is removed. Acceptable types of replacement trees are shown in Section 19.14. Trees shall be replaced at the following rates:
1. Any tree with a caliper of less than three (3) inches shall be replaced by the same caliper and type of tree.
 2. Trees that are four (4) to (16) inches in caliper shall be replaced with two trees with a minimum caliper of three (3) inches. Larger trees may be used as long as at least six (6) caliper inches is replaced.
 3. Trees that are seventeen (17) to thirty (30) inches in caliper shall be replaced with three trees with a minimum caliper of three (3) inches. Larger trees may be used as long as at least nine (9) caliper inches is replaced.

4. Trees that are larger than thirty (30) inches in caliper shall be replaced with four trees with a minimum caliper of three (3) inches. Larger trees may be used as long as at least twelve (12) caliper inches is replaced.
5. If the physical limitations of the subject property are such that all of the replacement trees cannot be properly located, the applicant may locate the extra trees on public park land with the approval of the City Horticulturist.

19.8 - Tree Spacing and Clearance

Trees shall be spaced along streets as follows:

- a. Except for areas zoned C-1, O-1, O-1P, or C-1P, no tree on an arterial street shall be planted closer than seven (7) feet from the face of the ultimate street curb or closer than four (4) feet from a sidewalk.
- b. At the intersection of any arterial street with any other street or driveway, no abutting property owner shall allow any vegetation to exceed a height of thirty (30) inches above street grade within the sight-triangle.
- c. Prior to any landscaping being installed on freeways and expressways, a letter from the appropriate state transportation agency (i.e., Oklahoma Department of Transportation or Oklahoma Turnpike Authority) approving of such landscaping shall be provided to the City of Broken Arrow.
- d. No tree shall be planted within fifteen (15) feet of any fire hydrant so as to obstruct the fire hydrant when viewed from the street.

19.9--Trees in Public Utility Easements

No trees, other than those species listed as small trees in Section 19.14, shall be planted under or within twenty (20) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground public utility line.

19.10 - Care of Trees on Public Land

The City shall have the right to prune and remove trees, plants, and shrubs within the public right-of-way lines of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to insure public safety, to preserve or enhance the symmetry and beauty of the public area, or to protect public utility facilities thereon.

19.11 - Landscaping Plan Approval

Landscape plans shall be reviewed and approved by the Planning Commission. For multifamily, commercial, and industrial developments, a landscaping plan may either be submitted with the required site plan or at later date following site plan approval. If the detailed landscape plan is to be submitted following site plan approval, the site plan shall at least show where landscape development is to occur. For single family, two-family, and mobile home developments, the location of proposed landscape development shall be shown on the preliminary plat followed by a landscape plan submitted with the final plat. Upon receipt of a landscape plan, the Planning Commission shall:

- a. Approve the landscape plan as complying with the requirements of this ordinance;
or
- b. Approve the landscape plan with conditions which bring it into compliance with the requirements of this ordinance; or
- c. Reject the landscape plan as failing to comply with the requirements of this ordinance; or
- d. Waive the landscape requirement if it is determined that a suitable location for landscape development is not available.

19.12 - Landscape Plan

The required landscaping plan shall contain the following:

- a. The date, scale, north arrow, project name and the name of the owner and designer.
- b. The location of property lines and dimensions of the tract;
- c. The approximate center line of existing water courses, the approximate location of significant drainage features, the location and size of existing and proposed streets and alleys, existing and proposed utility easements and overhead utility lines on or adjacent to the lot, existing and proposed fire hydrants on or adjacent to the lot, and existing and proposed sidewalks on or adjacent to the lot;
- d. The location, size, and type (tree, shrub, ground cover, berms, or grass) of proposed landscaping and the location and size of the proposed landscaped areas;
- e. Planting details and/or specifications;

- f. The location, size (caliper and height), condition, and common name of any existing tree for which credit is requested shall be indicated. The method of protecting the existing trees which are to be retained from damage during construction shall be described;
- g. The proposed irrigation system, including a drawing of the nature and location of the irrigation system; and
- h. The schedule of installation of required landscaping and appurtenances, which shall specify installation of all required landscaping and appurtenances, except trees, prior to the issuance of a certificate of occupancy (for multifamily, commercial, and industrial developments) or first building permit (for single family and two family developments) and further specify installation of required trees within the landscape plan within one hundred-twenty (120) days after issuance of such occupancy permit or first building permit. No manufactured housing units shall be allowed to be installed until all required landscaping is completed.

19.13 - Certification of Installation

Prior to the issuance of a certificate of occupancy (for multifamily, commercial, and industrial developments) or issuance of final inspection (for single family and two family developments), written certification shall be submitted to the City of Broken Arrow Inspection Department by an architect, landscape architect, or engineer authorized to do business in the State of Oklahoma or the owner of the property that the installation of the landscaping and appurtenances, except trees, are in accordance with the landscape plan approved by the Planning Commission. Prior to or within one hundred-twenty (120) days following the issuance of the occupancy permit (for multifamily, commercial, and industrial developments) or first building permit (for single family and two family developments), written certification of an architect, landscape architect, or engineer authorized for business in the State of Oklahoma or the owner of the property that all trees have been installed in accordance with the approved landscape plan shall be submitted to the City of Broken Arrow Inspection Department.

19.14 - APPROVED TREE LIST FOR LANDSCAPE REQUIREMENTS

DEFINITIONS:

Large trees- Trees that will attain a mature height of over sixty (60) feet and at least thirty-five (35) feet wide. These trees should be spaced at least thirty-five (35) feet apart.

Medium trees- Trees that will attain a mature height of thirty to sixty (30-60) feet and at least twenty-five (25) feet wide. These trees should be spaced at least twenty-five (25) feet apart.

Small trees- Trees that will attain a mature height of less than thirty (30) feet and at least fifteen (15) feet wide. These trees should be spaced at least fifteen (15) feet apart. Only small trees may be planted under or within ten (10) feet of an overhead utility.

LARGE TREES:

Botanical name

Common name

Celtis occidentalis
Fraxinus americana
Fraxinus pennsylvanica
Ginkgo biloba
Liriodendron tulipifera
Pinus echinata
Pinus taeda
Platanus x acerifolia
Platanus occidentalis
Quercus alba
Quercus bicolor
Quercus coccinea
Quercus nigra
Quercus palustris
Quercus phellos
Quercus rubra
Quercus shumardi
Taxodium disticum
Carya illinoensis
Juglans nigra

Hackberry
+White ash*
+Green ash*
+Ginkgo**
Tulip tree
Shortleaf pine
Loblolly pine
London planetree
Sycamore
White oak
Swamp white oak
Scarlet oak
Water oak
Pin oak
Willow oak
Northern red oak
+Shumard oak
+Bald cypress
Pecan
Black walnut

MEDIUM TREES:

Botanical Name

Common Name

<i>Acerplatanoides</i>	Norway maple*
<i>Acer rubrum</i>	Red maple*
<i>Acer saccharum</i>	Sugar maple*
<i>Betula nigra</i>	River birch
<i>Bumelia lanuginosa</i>	Chittamwood
<i>Carpinus betulus</i>	European hornbeam
<i>Celtis laevigata</i>	Sugar hackberry
<i>Gleditsia triacanthos</i>	+Thornless honeylocust*
<i>Gymnocladus dioicus</i>	Kentucky coffee tree**
<i>Ilex opaca</i>	American holly
<i>Juniperus scopulorum</i>	Rocky mountain juniper
<i>Koelreuteria paniculata</i>	+Goldenrain tree
<i>Magnolia virginiana</i>	Sweetbay magnolia
<i>Morus alba</i>	White mulberry*
<i>Ostrya virginiana</i>	Eastern hophornbeam
<i>Pinus nigra</i>	Austrian pine
<i>Pinus thunbergiana</i>	Japanese black pine
<i>Pinus sylvestris</i>	Scotch pine
<i>Pistacia chinensis</i>	+Chinese pistache
<i>Pyrus calleryana</i>	+Callery pear*
<i>Quercus acutissima</i>	+Sawtooth oak
<i>Quercus muehlenbergi</i>	+Chinquapin oak
<i>Quercus robur</i>	+English oak
<i>Quercus stellata</i>	Post oak
<i>Quercus virginiana</i>	Live oak
<i>Sapindus drummondii</i>	Western soapberry
<i>Sophora japonica</i>	Japanese pagoda tree
<i>Tilia Americana</i>	American linden
<i>Tilia cordata</i>	+Littleleaf linden
<i>Ulmus parvifolia</i>	+Lacebark elm
<i>Zelkova carpinifolia</i>	Japanese zelkova

SMALL TREES:

Botanical Name

Common Name

Acer ginnala
Amelanchier arborea
Carpinus caroliniana
Cercis canadensis
Cercis reniformis
Cotinus coggygia
Crataegus spp.
Elaeagnus angustifolia
Magnolia soulangiana
Malus spp.
Philadelphus coronarius
Prunus cerasifera
Prunus serrulata
Prunus virginiana
Syringa reticulata

+Amur maple
Downy serviceberry
American hornbeam
+Eastern redbud
+Oklahoma redbud*
+Smoketree
Hawthorn*
+Russian olive
Saucer magnolia
+Flowering crabapple*
Sweet mockorange
Purpleleaf plum*
Japanese cherry
Chokecherry
Japanese tree lilac

* only use improved grafted trees

** male trees only

+ best trees recommended for parking lot applications

SECTION 20

SWIMMING POOLS AND ASSOCIATED EQUIPMENT

20.1 Swimming Pools

Swimming pools may be placed in rear yards and rear building line areas upon approval and issuance of a building permit in any A-1 or R (all) districts. No swimming pool, nor any part of it, inclusive of decks and equipment, shall be placed in any utility easement, nor drainage easement. No swimming pool, nor any part of it, shall be closer than five(5) feet of any property line. All above ground swimming pools shall be at least twenty-five(25) feet from any arterial street.

(Ord 2197, adopted 2/15/99)

SECTION 21

OUTDOOR LIGHTING STANDARDS

(Ord No. 2531, adopted 5/19/03)

21.1—PURPOSE

The purpose of this ordinance shall be to establish standards for the use of outdoor lighting facilities that serve private developments, to promote the following land use and public policy goals: providing adequate lighting for customer, pedestrian and driver use; provide for the efficient use of energy; mitigate light trespass, nuisance, and glare to adjacent properties; and reduce light pollution to the general community and mitigate effects to the night sky.

21.2--GENERAL LIGHTING STANDARDS

Applicant may use either the “Fixture Height Standard” or the “Photometric Standard.” Either method used shall provide sufficient and safe illumination for vehicle movement and pedestrian safety. Special care is to be taken to avoid light trespass and glare onto adjacent properties and into public rights-of-way. Light poles shall not be placed in street rights-of-way or utility easements adjacent to street rights-of-way, except by franchised utility companies or by the City of Broken Arrow, as a part of a street lighting project. Light poles may be placed in other utility easements with the approval of the Planning Commission; and if light poles are allowed to be placed in utility easements, a note shall be placed on the face of the site plan stating the following: “Property owner(s) assumes all liability and replacement responsibilities for any damage to light poles placed in utility easements.” Planning Staff may approve outdoor lighting after site plan review as directed by the Planning Commission.

Single-family, duplex development projects, franchised public utility companies when working on public utility lighting for public utility purposes in utility easements, and outdoor recreational facilities (public or private) are expressly exempt from the requirements of this Section.

Outdoor lighting plans may be required for customer and employee safety. If no lighting is proposed, a note shall be placed upon the face of the site plan indicating that outdoor lighting is not required. After review by the Planning Commission an outdoor lighting plan may be required.

Illumination of the perimeter of the site shall be reduced in intensity when adjacent to lesser intensive uses or public rights-of-way measured in foot-candles (fc) at three (3) feet above grade as follows for either the fixture height or the photometric standard:

1. Site adjoining another non-residential zoning district – 3.0 fc
2. Site adjoining agricultural/residential zoning districts – 0.5 fc
3. Site adjoining public rights-of-way – 3.0 fc

21.3-LIGHTING LEVEL MEASUREMENTS

Light levels shall be measured with a direct-reading, portable light meter, calibrated within the last year by an independent laboratory regularly engaged in the calibration of such instruments. The meter's sensor shall be located at the top of the visual screening fence on the property line (or at a height of 3 feet above the surrounding local grade if there is no fence), aimed towards the commercial property in horizontal position. Readings shall be recorded after the value has stabilized. Measurements are made after establishment of darkness with the light sources to be measured illuminated, and then with those light sources extinguished. The difference between these two readings will then be compared to the maximum allowed illumination at the property line.

In this way, contributions to light levels by the moon and other ambient light sources are eliminated and the light intensity from the sources in question can be determined.

21.4-Fixture Height Standard: All outdoor lighting shall be by shielded fixtures. Light fixtures shall be parallel to the final grade and installed so that no direct light will shine beyond the subject property. The height of light poles and fixtures shall be approved through the site plan process. Planning staff may approve outdoor lighting plan as directed by the Planning Commission as a condition of the site plan approval.

The submitted lighting plan shall include the following:

1. A scale drawing of the site with all outdoor lighting locations shown;
2. Fixture specifications, including catalog cut-sheets or generic standards;
3. Pole type and height of fixture from base of the pole;
4. Lamp type and size; and
5. Fixture mounting, and orientation.

Allowable heights of light fixtures shall be measured from the light-emitting surface to the base of the pole location as follows:

1. Maximum height of sixteen (16) feet, within fifty (50) feet of agricultural/residential zoned districts, or public right-of-way;
2. Maximum height of twenty (20) feet, within fifty-one (51) feet to two hundred fifty (250) feet of agricultural/residential zoned districts, or public right-of-way;
3. Maximum height of thirty-five (35) feet, if located a minimum two hundred fifty-one (251) feet from agricultural/residential zoned districts, or public right-of-way;
4. Maximum fixture height shall not exceed thirty-five (35) feet; and
5. Canopy lighting shall be by recessed fixtures with diffusers that do not extend below the canopy surface.

21.5-Photometric Standard: A photometric plan is required to be submitted unless the "fixture height standard" is utilized. If the "photometric standard" is desired to increase

pole heights, the applicant shall submit a photometric plan in sufficient detail to evaluate it's conformance with standards and guidelines as set forth below. The photometric plan shall include the following:

1. A scale drawing of the site with all outdoor lighting locations shown;
2. Fixture specifications, including catalog cut-sheets or generic standards;
3. Lamp type and size;
4. Fixture mounting heights, mounting orientation, and tilt angles if applicable;
5. A representative point-by-point illumination array for the site showing property lines and off site lighting impacts;
6. The maximum fixture height shall not exceed thirty-five (35) feet as measured from the base of the fixture to the base of the pole;
7. Canopy lighting shall use recessed fixtures with diffusers that do not extend below the canopy surface.